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(3)

No. 08-188

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SUPREME COURT, U.S.

In The Supreme Court Of The United States

Mariela Valderrama — Petitioner

v.

Honeywell TSI / Honeywell Int. — Respondent(s)

On Petition For Writ Of Certiorari - To review decision by United States Court of Appeals for the Fourth Circuit
Petition for Writ of Mandamus-Civil Rights in violation of The Constitution of the United States
Questions of Law to the Supreme Court
And Lower Court Judgment

REPLY TO BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

Mariela Valderrama
Pro Se

P O Box 347
Gambrills, Maryland 21054
410.570.7771

QUESTIONS PRESENTED

Respondent elevated one of eight questions as follows:

Whether the United States Court of Appeals for the Fourth Circuit properly affirmed the entry of Summary Judgment against a former employee, of Honeywell Technology Solutions, Inc. ("HTSI") subsidiary of Honeywell International, who claimed that HTSI discriminated and retaliated against her in violation of Title VII of the Civil Rights Act of 1964.

Petitioner raised Eight Questions in the Petition for Writ of Certiorari. Please refer to Petition pages numbered: i to xiii.

LIST OF PARTIES

A. Petitioner: Mariela Valderrama

Address: P O Box 347
Gambrills Md. 21054

Phone Number: Cell 410.570.7771

Disclosure Statement: Petitioner, Mariela Valderrama, is a regular individual whom pro se party is no parent or publicly held company owning 10% or more of the corporation's stock or any other publicly held entity.

B. Respondent(s):

(i). Honeywell Technology Solutions Inc.

Address: 7000 Columbia Gateway Dr.
Columbia Maryland 21046

(ii). Honeywell International
Corporate Law Department
Assistant General Counsel
Michael E. Ferrans

Address: 101 Columbia Road
P.O. Box 2245
Morristown, New Jersey
07962

Phone Number: 973-455-3845
073-455-5343 Fax

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REPLY TO BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

Petitioner, Mariela Valderrama, respectfully requested this Court issue a Writ of Certiorari for various compelling reasons. Valderrama v. Honeywell is a complex case. Ms. Valderrama presented adequate reasons for granting the petition. The petition clearly explained the various extraordinary circumstances unique to this case. Hereby, Petitioner plea this Court takes into consideration this Reply to responder's brief in opposition to petition for a Writ of Certiorari. The Justices time would not be waste in vain to the contrary elevating the instant petition to its discretionary docket for discussion will bring to light various violations to the Constitution of the United States of America. Ms.Valderrama has presented a meritorious case to this Court.

STATEMENT

The decision that granted Summary Judgment failed to look at all the evidence presented. The complex case presented various motions that resulted being denied and motion presenting an affidavit with evidence in opposition to Summary Judgment mooted. Petitioner raises questions to the Supreme Court because lower Courts have long believed that, in discrimination cases, where intent and motive are at issue, summary judgment is disfavored.* Wallace v. DTG Operations, Inc., 442 F.3d 112 "Although Rule 56 contains only one standard, we must exercise particular caution when examining the factual

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* Words on page 216

question of intent to ensure that we dutifully extend all justifiable in favor of the nonmoving party." The lower Court granted the respondent's Summary Judgment motion on the eve of trial.

First, the analysis for grant of Summary Judgment mentions Federal Rule of Civil Procedure 56. The nonmoving party did not receive the light most favorable. The lower Court paramount favoritism to Respondent took denial of claims as true evidence, even though.[1] Petitioner compelled denials and credibility of Respondent. Appellate courts constructing 56 standards consistently hold that if the outcome hinges in whole or in part on the state of intent or witness credibility, summary judgment should not be granted. The problem of witness credibility is of critical importance, most particularly in circumstances like this case where perception and credibility are inextricably intertwined. The motives and credibility of the parties are matters of fact for the jury, not matters of law for the court. Sactor v. Arkansas Natural Gas Corp., 321 U.S. 620 at 624

Moreover, where there exits doubt as to the credibility of a material witness – not to mention a party- summary judgment is never appropriate. Wright & Miller, Federal Practice and Procedure: Civil 3d § 2726; Moore's Federal Practice § 56.15[3].
"...witnesses credibility is solely within the jury's province and [courts] may not...make credibility determinations. " U.S. v L.E. Cooke Co., 991 F2d 336 at 343

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[1] Refer to Petition for Writ Cautionary, Appendix B-1 page 17. Valderrama have presented the involvement of the government and compelled for classified information was denied.
* Words on page 251

The mooting affidavits in opposition to Summary Judgment show question of federal law. It is unconstitutional against the first amendment. The evidence made reference to extraordinary circumstances created by the federal government. It is against the first amendment for a citizen of the United States to be unable to present evidence because the client of the responder happens to be NASA in turn the government.

"Amendment I

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peacefully to assemble, and to petition the government for a redress of grievances."

Responder adverse employment action evidence shown to the lower Court raised a casual connection to the government. Responder supports the government for profit. Petitioner worked for a contract with NASA.

Second, On April 14, 2005 the lower Court received Opposition to Motion to Dismiss. Since the initial Opposition to Motion to Dismiss petitioner clearly wrote on affidavit the sexual comments that created a hostile work environment.[2] This matter addresses a perceived misstatement. Respondent's counsel Morell entered the litigation's defense at the time for

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[2] Please refer to Appendix A and Appendix B of this Brief.

* Words on page 198

Summary Judgment. The lower Court Memorandum dated July 18, 2005 - Appendix B-2 in the Petition to Writ Certiorari page 2 stipulated "Sex and National Origin". The Court Ordered to proceed with discovery under Title 42 U.S.C. §2000e, et seq. elevating discrimination based on Sex and National Origin. Appendix A of this brief shows the Response to Motion to Dismiss, on page 5 and 7 identified that the working atmosphere became abusive. The Court Memorandum to Summary Judgment dated February 14, 2008 in Appendix B-1 of the Petition – page 15 at #3 "for the first time in this case, Valderrama raises the claims of sex discrimination and hostile work environment." This matter is a misstatement of fact. The Affidavit of Points and Authorities in Support to Motion to Dismiss shown in Appendix B of this Brief – page 3 identifies the comments and the alleged discrimination. Page –8 shows reference of the comments and conduct that created a hostile abusive environment. The name of persons responsible for conduct is in the complaint in discrimination such supervisor – Software lead - Jim McDonald, the person who said the unwanted comments. Discovery denials evidence on this matter rose credibility to the lower Court. Respondent's employee conduct is actionable as an abusive work environment under Title VII, 42 U.S.C.S. §2000e-2(a)(1). Harris v. Forklift Systems, Inc., 510 U.S. 17

Petitioner raised claim of sexual comments that made the work environment hostile to the lower Court from the initiation of this litigation.*

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* Words on page 248

Third. Discrimination based on National Origin under Title 42 U.S.C.S. §2000e-2(a)(1) precedent of Courts mentions 'the phrase terms, conditions, or privileges of employment evinces a congressional intent to strike at the entire spectrum of disparate treatment of men and women in employment, which includes people to work in discriminatory hostile abusive environment'

Petitioner, a citizen of the United States, is Hispanic, a woman, Naturalized for over twenty years from Colombia S. A., a minority. Petitioner ethnic origin raised argument through out the litigation on the fact that classified investigations done by the responder and the various government agencies raised a serious matter that let to national origin discrimination. Motions were denied to obtained classified information. It is compelling that the dealings of the government with the Colombia's Gerrilla FARC; rose the question of Responder business relationship handling contracts for the government; and the fact that family work for the government caused lack of equal opportunity and equal application of the law. The government interest became unreasonable. It is unconstitutional against the fourteen amendments:

> "Amendment XIV (1868)
> Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. *No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any

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* Words on page 235

state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

The ultimate employment decision on discharge had a multi-layer of facts attributed to working under a contract. Please refer to Appendix A of this brief page 5 paragraph 2.

The tactics used to harm Petitioner professionally with derogative personal unwanted comments cutlined methods by government due to the government misconduct regarding Colombia S.A. Korematsu v. United States, 584 F. Supp. 1406(1944) (1984).

Fourth, it is compelling the involvement of the Government to obstruct justice. As the case litigation advanced and moved to higher courts petitioner had been torture. Department of Defense, Mr. Frank Chapa and others working for him, have inflicted severe physical and mental pain. Petitioner elevated this matter in the mandamus. Ms. Valderrama pain and suffering due to surveillance control elevates questions of federal law in the petition. This matter surrounded extraordinary circumstances to this case. It is a question of federal law to consider the advance of technological advances questions 1, 2, 3, 4, 5, 6. Tools that have been used to harm petitioner is a violation of privacy. Respondent discriminated petitioner while providing technical support at a contract with NASA.*

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* Words on page 215

Petitioner raised questions of privacy and the evidence and names of people working for the government committing a crime against petitioner due to litigation is circumstantial evidence.

Constitutional guaranty of just and equal laws is in question in this case. The central meaning of the equal protection clause and deprived appellant of liberty without the due process of the law is in violation of the due process clause of the United States Amendment XIV.

The used of advance technological tools that violate privacy and deprive a person from liberty of thought and the liberty to the pursuit of happiness and life raise a federal question - unconstitutional under Title 18; and the law of this land.

The Court has declared the search an unconstitutional invasion of privacy. Obtaining any information by "sense-enhancing technology – such using a thermal imager"; any information regarding the interior of the home. Kyllo v. United States, 533 U.S. 27.

"Amendment IV

The right of the people to be secure in their persons..."

Five, it becomes compelling that respondent stole justice by denials. *Impeachment could not take place in Summary Judgment in the eve of trial. Respondent

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* Words on page 193

breach of duty of good faith; fair dealings and intent raised show evidence for a jury to determine. Retaliation against petitioner raised critical questions for both discriminatory acts and hostile work environment claims, which are what constituted an "unlawful employment practice" and the practice "occurred" for years. The answer to discrimination varies with the practice.

Sixth, An initial claim filed with EEOC on June 2002 was within the Title VII's timely filing requirements. The EEOC claim events as a whole may still be part of the one claim, and a charge may be filed at a later date and still encompass the whole. Such is the matter in this case later in September 2004 Petitioner filed a continuation. Due to the extraordinary circumstances in this case with the government EEOC said it does not investigate cases that involved the federal government, NASA. Therefore the filing with EEOC was initially ignored. [3]

Seventh, The Court of Appeals ruled on a Mandamus written for the Supreme Court. The motion elevated violations to obstruct justice by the government as the litigation of this case developed. This serious matter elevates a federal law on retaliation under Title 18 chapter 1513

> "whoever knowingly engages in any conduct and thereby causes bodily injury to another person or damages the tangible property of another, or threatens to do so, with intent to retaliate any person..."

The Court denied the Mandamus Motion.

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[3] Matter rose on Appendix B of this Brief page 2.

* Words on page 245

RESONS FOR GRANTING THE WRIT

A. This complex case comprises of multi-layer claim and the questions to the Supreme Court elevate personal rights that can be deemed "fundamental" or "implicit" in the concept of ordered liberty included in guarantee of personal privacy.

B. The raised questions to the Supreme Court distinguish the scope of federal power versus Respondent contract businesses and former employee, Ms Valderrama, be subject to apply strict scrutiny. And/or a multi-tiered system of review and this Court discretion to decide petition merit review.

C. Disrespect to the law in this case identified alliance, like race – national origin – discrimination – reflection on federal authority and naturalization raise questions of equal rights and equal opportunity, which is a suspect classification to applied strict scrutiny.

D. The equal protection clause of the Fourteenth amendment forbids a state to "deny to any person within its jurisdiction the equal protection of the law" The perceived misstatement of fact rose in this brief under Statement Second elevate sufficient showing to grant the Writ.*

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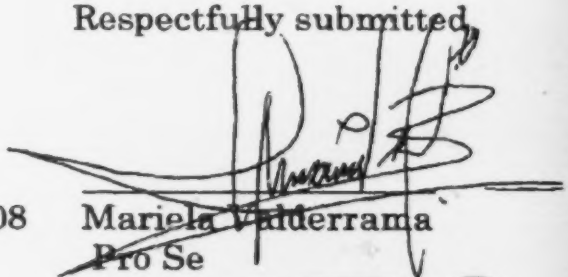
* Words on page 172

CONCLUSION

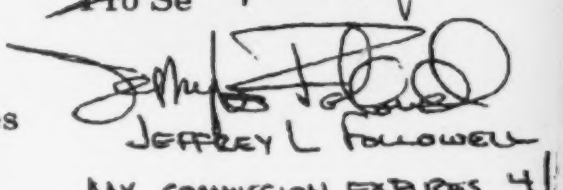
WHEREFORE, Petitioner, Mariela Valderrama. requests the Supreme Court grant Writ Certiorari in this matter to resolve whether the evidentiary framework shadowed by refusing to consider mooted evidence, Respondent intent to steal justice due to the extraordinary circumstances identified during litigation and in this brief. A review apply by the Supreme Court may prevent further discrimination on violations of civil rights by Respondent on the basis of national or ethnic origin, race – to employees – natives and/or naturalized citizens now and in the future.

I SOLEMNLY AFFIRM under the penalties of perjury pursuant to Title 28 § 1746 that the content of this petition is true to the best of my knowledge and information.

Respectfully submitted,



Date: September 25, 2008 Mariela Valderrama
Pro Se



Enclosures:
cc: Court Filed 40 Copies
Responder 3 Copies
Petitioner Copy*

* Words on page 140; Total words 2,115

Appendix A

Response To Motion To Dismiss

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
BALTIMORE DIVISION

CIVIL No.: L-05-747
Honorable Judge Benson E. Legg

MARIELA VALDERRAMA,
Plaintiff
Vs.
HONEYWELL TSI,
Defendant
Counsel VICTOR MILLER
7000 Columbia Gateway Drive
Columbia, MD. 21046
And Defendant
HONEYWELL International Inc.
Counsel PETER M. KREINDLER
101 Columbia Road
Morristown, NJ 07962
Defendants.

RESPONSE TO MOTION TO DISMISS

Plaintiff, Mariela Valderrama, pursuant to the Court's guidance dated March 30, 2005, submits a response to defendant's motion to dismiss. Plaintiff respectfully requests that the Court deny the motion as premature without prejudice or the entry of summary judgment against plaintiff. Plaintiff with due respect moves the court to grant prospective equitability relief under 42 USCS §1981, §1983, TORTS, 18 §2520 etc. against defendant Honeywell, if

the court finds that Title VII of The Civil Rights Act of 1964, as amended ,42 USCS §2000e et. seq. statute can not be used. The complaint's statements state prejudice, years of harassment and discrimination with violations of Civil Rights directed to plaintiff, a Naturalized Citizen of Colombian decent. The complaint capture accountability of material issues of facts, as it is also set forth in the Affidavit of Points and Authorities in Support to Response to Motion to Dismiss which is attached hereto, made a part of, and marked Exhibit "1".

I. AFFIDAVIT IN SUPPORT TO RESPONSE TO MOTION TO DISMISS

Contrary to assertions contained in defendant's Memorandum of Points and Authorities in Support of Motion to Dismiss Complaint, the claim for relief is not mooted by failure to state claim, but, instated, by application of doctrines of res judicata and collateral estoppel, the findings of fact and conclusions of law rendered in this decision and establish material issues of facts, as set forth in the Affidavit of Points and Authorities in Support to Response to Motion to Dismiss which is attached hereto, made a part of, and marked Exhibit "1". Meyer Pincus & Assoc v. Oppenheimer &Co., 936 F.2d 759, 762(2d Cir. 1991Court has permitted clarifying documents without the motion being converted into one for summary judgment against plaintiff under Rule 56.

II. ANSWER FOR COUNT I, Invasion of Privacy

Contrary to assertions contained in defendant's motion to dismiss please refer to Affidavit of Points and Authorities in Support to Response to Motion to

Dismiss, Exhibit 1. Conflicting with the memorandum of Points and Authorities in Support of Motion to Dismiss, Plaintiff styled her claim with facts alleging invasion of privacy illustrating that the Defendant's conduct led to intimidation, humiliation, harassment, public contempt, scorn and ridicule as the result of releasing private matters about plaintiff (Complaint ¶ 8, ¶ 9, ¶ 20) not within the scope of professional endeavors, but reporting about intrusive violations of privacy. Complaint ¶ 8, stipulates March, 2002 as inclusive. The complaint depicts years of discrimination because Plaintiff is a Naturalized Citizen of Colombian decent. Defendant actively concealed and negated the existence of the cause of action from Plaintiff (Complaint ¶ 10) started on September 2001 and it went beyond her last date of service April 29, 2002. In addition, defendant invaded and intruded into plaintiff's family, (outside her immediate family). Plaintiff gave not consent for any interception; Defendant was not a party to the communication or had to bug/tap her car to be covered under color of the law.

Plaintiff with due respect moves the Court for an order to continue action for Count I and grant prospective relief under Restatement, TORTS 2d, § 652 B, §652 E, and §652 I and/or [Defendant's conduct under section 706(g) of the Civil Rights Act of 1964 and 42 USDC §2000e-5, or §1981, §1983] and 18 USDC §2510 (2), §2510 (4), §2510 (5)(a)(i), 18 USDC §2520 (b), 18 USDC §2511(1)(b), 18 USDC §2511 (2)(d) and 5 USDC 552a (g)(1)(C) or (D) or exarbitrio Judicis.

III. ANSWER FOR COUNT II, Invasion of Privacy with Unreasonable Publicity Given to Private Life

Contrary to assertions contained in defendants's motion to dismiss please refer to Affidavit of Points and Authorities in Support to Response to Motion to Dismiss, Exhibit 1. Adverse to assertions in the Memorandum of Points and Authorities in Support of Motion to Dismiss Complaint, the citing authorities CORE TERMS defer from the facts in Count II. The cause of action of Count II illustrated defendant invasion of privacy regarding their opinion on a issue that is protected under the law to avoid humiliation making it a moral issue, a sensitive matter cover from elaboration to prevent public contempt, scorn and ridicule.

"The law is not for the protection of the hypersensitive and all of us must, to some reasonable extent, lead lives exposed to the public gaze"; nevertheless, a portion of any individual's life according to the law should be free from scrutiny. Defendant committed a TORTIOUS unreasonable act invading plaintiff's privacy, which has legal protection.

Plaintiff with due respect moves the Court for an order to continue action for Count II and grant prospective relief under Restatement, TORTS 2d, § 652 D, and §652 E, Md. Ann. Code art. 49B, 14(2005), and Md. Ann. Code art. 49B §16 (2005), 18 USDC §2511 (1)(d) and/or [Title VII Civil Rights Act of 1964, 42 USDC 2000e et. seq., or §1981, §1983], or exarbitrio Judicis.

IV. ANSWER FOR COUNT III, Intentional Discrimination

Contrary to assertions contained in defendant's motion to dismiss, please refer to Affidavit of Points and Authorities in Support to Response to Motion to Dismiss, Exhibit 1. Plaintiff respectfully request that the Court properly grant prospective equitable relief under 42 USCS §1981, §1983, or 42 USCS §2000e-2 and other applicable statutes and/or court rules against defendant Honeywell or ex arbitrio Judicis. The Plaintiff's last day of work was April 29, 2002, and her employment terminated effectively May 13, 2002. Forty Five (45) days after termination plaintiff filed the initial discrimination complaint with the EEOC on June 13, 2002. (Please, refer to Initial EEOC complaint attach hereto as Exhibit "2".) EEOC failed to keep record of the complaint or take any action, so plaintiff resubmitted the complaint on September 15, 2004. EEOC granted Plaintiff the right to sue on November 18 2004. Please, note that plaintiff continue to be intimidated and humiliated after April 29, 2002, her last day of work; therefore, at the time she filed the initial complaint Plaintiff continue to be investigated.

Please, take notice that Plaintiff contacted NASA Security and was informed that NASA had submitted clearance request to various U.S. government agencies such NSA, STATE, FBI etc. and Mr. Dave Molton indicated the investigation had to take its course and it could not be stopped; therefore, the reports sent to NASA address a highly offensive moral issue reported by defendant.

Plaintiff a Naturalized Citizen of Colombian decent,

opposes assertions in the Memorandum of Points and Authorities in Support of Motion to Dismiss complaint, Plaintiff was sought for an Ambassador position (Complaint ¶25 for Count I ¶15). Such positions comprise a body of dignitaries who represent a Nation. Plaintiff performance legitimate met Honeywell performing expectations during her 22 years of service. Plaintiff had just performed above expectations modifying and delivering software tools to support the government effort against the war on terrorism in Afghanistan after 9 / 11 and coding procedural tools and coding routines to maintained Web Applications to display results of collected satellite data. Enriquez v Honeywell, Inc.,(1977,DC Okla) 431 F Supp 901.

Complaint ¶26 represents the action of defendant violating plaintiff and family, invading their privacy spreading, and disseminating plaintiff private finding such she was sought to become an Ambassador, putting her down because of her appearance and finally terminating her. Complaint ¶31 relates defendants in authority who as many others intimidated and humiliated plaintiff with put downs just because they found out who her friends were and sardonically saw plaintiff inferior enough, to give derogatory remarks "Look Ja! Ja! She is going to be an Ambassador, she is not much, look at the way she looks Ja! Ja!." and similar remarks regarding people she saw outside from work. It was not of their business, it have not been public until defendant reported the news at work.

Defendant went too far intimidating just because of plaintiff non-Caucasian looks. The people that plaintiff saw outside from work was not of their

business. Complaint ¶ 62 action refers to Complaint ¶43 for which defendant became defensive saying that since the networks are monitor, NASA had knowledge that I was been harassed and the atmosphere had became abusive. After I typed that a security representative from NASA came and the supervisor and him when by my cube. I recalled he gave a negative report. Then, the intimidation geared to remarks such "Oh! You are going to work for NASA."

Plaintiff with due respect moves the Court for an order to continue action for Count III and grant prospective relief under statues addressed above or exarbitrio Judicis.

V. ANSWER FOR COUNT IV, Intentional Infliction of Emotional Distress

Contrary to assertions in the defendants' motion to dismiss, please refer to Affidavit of Points and Authorities in Support to Response to Motion to Dismiss, Exhibit 1. Conflicting with assertions in the Memorandum of Points and Authorities in Support of Motion to Dismiss Complaint, Plaintiff metal anguish caused be defendant Intentional Infliction of Emotional Distress as stated in Count IV of the complaint continue to cause a rippled effect to which I cannot elaborate to protect the domestic and International security intelligence of the United States of America.

Plaintiff with due respect moves the Court for an order to continue action for Count IV and grant prospective relief under Restatement, TORTS 2d, §46 (c), §46 (d), §46 (e), §46 (2), §47 (b), and/or Title VII

Civil Rights Act of 1964, (42 USDC §2000e- 2000e-17) or ex arbitrio Judicis.

VI. ANSWER FOR COUNT V, NEGLIGENCE

Contrary to assertions in the defendants' motion to dismiss, please refer to Affidavit of Points and Authorities in Support to Response to Motion to Dismiss, Exhibit 1. Conflicting with assertions in the Memorandum of Points and Authorities in Support of Motion to Dismiss Complaint, Defendant actively concealed and negated the existence of any wrong employment practices, such harassing, intimidating plaintiff at work and outside from work and wrongful discharge. Plaintiff has a meritorious cause of action, and has been, at all times, and now is desirous of having actions in Count I to Count V determined on its merits identifying defendant gross negligence with unfair employment practices.

Plaintiff strongly opposes defendant dissemination of adverse, unfair and unlawful employment practices. Plaintiff with due respect moves the Court for an order to continue action for Count V and grant prospective relief under Title VII Civil Rights Act of 1964, (42 USDC § 2000e- 2000e-17 and/or §1981, §1983; (42 USDC §2000e-2(a)(1))), and/or Md. Ann. Code art. 49B; Restatement, TORTS 2d, § 312, § 313, § 46(14)(j), § 47(a), §500(a) or ex arbitrio Judicis.

WHEREFORE, Plaintiff, Mariela Valderrama, respectfully request that the Court enter an Order denying defendants' motion to dismiss without prejudice or the entry of summary judgment against plaintiff and that the Court retain jurisdiction for purposes of later determining whether Plaintiff is entitled to damages and the amount of any damages to which she is entitled, to provide any other relief deemed equitable, and to award costs and reasonable litigation fees under statute 42 §1988 and/or other applicable statutes and court rules.

I SOLEMNLY AFFIRM under the penalties of perjury, that the contents of the present response are true to the best of my knowledge, information and belief.

Respectfully submitted,

April 14 2005

_____ _____s_____

Date

Mariela Valderrama
P. O. Box 347
Gambrills, Maryland 21054
(410) 790-1482

Pro Se

Enclosures
cc: Court File Original
Opposing Counsel
Thank you for your anticipated cooperation!

Appendix B

Affidavit Of Points And Authorities In Support

To Response To Motion To Dismiss Complaint

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
BALTIMORE DIVISION

CIVIL No.: L-05-747
Honorable Judge Benson E. Legg

MARIELA VALDERRAMA,
Plaintiff
Vs.
HONEYWELL TSI,
Defendant
Counsel VICTOR MILLER
7000 Columbia Gateway Drive
Columbia, MD. 21046
And Defendant
HONEYWELL International Inc.
Counsel PETER M. KREINDLER
101 Columbia Road
Morristown, NJ 07962
Defendants.

AFFIDAVIT OF POINTS AND AUTHORITIES IN SUPPORT TO RESPONSE TO MOTION TO DISMISS COMPLAINT

Now Comes Plaintiff, Mariela Valderrama, being first duly sworn, deposes and says: I respectfully move the court to continue the actions for Counts I through V of Complaint. The complaint statements allege prejudice and capture accountability of claims upon which relief can be granted. Plaintiff last day of work was April 29, 2002, and her employment terminated effectively

May 13, 2002. Forty Five (45) days after termination plaintiff filed the initial discrimination complaint with the EEOC on June 13, 2002. (Please, refer to Initial EEOC complaints attach hereto as Exhibit 2.)

EEOC failed to keep record of the initial complaint or take any action, so plaintiff resubmitted the complaint on September 15, 2004. EEOC granted Plaintiff the right to sue on November 18 2004. Please, note that plaintiff continue to be intimidated and humiliated after April 29, 2002, her last day of work; therefore, at the time she filed the initial complaint Plaintiff continue to be investigated. Plaintiff contacted NASA Security and was informed that NASA had submitted clearance request to various U.S. government agencies such NSA, STATE, FBI etc. and Mr. Dave Molton indicated the investigation had to take its course and it could not be stopped.

In addition, plaintiff moves the Court, pursuant to rule 12(d) of the Rules of Civil Procedure, to hear and determine before a trial of the principal case herein the defense Rule 12(b).The following response will reiterate claims upon which relief can be granted:

I. INVASION OF PRIVACY - CLAIM FOR RELIEF

1. Restatement, TORTS 2d, § 652 B, §652 E, and §652 I on Invasion of Privacy prohibit reporting, describing, revealing or going as far as reporting an individual sexual habits. Plaintiff privacy is not of legitimate business or public concern. Defendant unfair employment practices embarrassing, intimidating and humiliating plaintiff reporting that

"plaintiff make out with dogs". Instantaneously caught in embarrassing, intimidating and humiliating plaintiff put her to public contempt, scorn and ridicule. Defendant forfeited plaintiff right to privacy by intruding making the matter a highly offensive moral issue (Complaint ¶ 10).

There is not reason for defendants who were in a position of authority to use a private highly offensive matter to hurt plaintiff engaging in unfair employment practices. Defendant outrageous actions illustrates his disregard to plaintiff reputation disclosing private matters and conspiring using employees to hurt plaintiff damaging her emotional well being. Defendant created animosity just for profit. Their report was not of legitimate professional or public interest.

2. Defendant's conduct violated section 706(g) of the Civil Rights Act of 1964 and 42 USDC §2000e-5, or §1981, §1983]. 3. 18 USDC §2510 (2), §2510 (4), §2510 (5)(a)(i), 18 USDC §2520 (b), 18 USDC §2511 (1)(d), 18 USDC §2511 (2)(d) prohibit wiretap in car, computer and phone. Plaintiff is a Naturalized Citizen of Colombian decent and her privacy has been totally invaded by defendant who improperly disclosed her personal business to coworkers and contactor NASA. Defendant may have the business as a contractor to report their findings; however, their surveillance when too far to state their opinions on moral issues which is not of an employer or public interest and harassed plaintiff using her private conversations including her private car communications with friends. She worked for 22 years for Honeywell and plaintiff had not National Security interest that all. Plaintiff only business association was Honeywell and

she was not involved with any subversive or illegal business that all. There is nothing to believe that plaintiff would have any reasonable National security interest for employer to hurt plaintiff via personal reports of not business or public interest. Defendant committed TORTIOUS acts while violating plaintiff's privacy, under Restatement, TORTS 2d, § 652 B, and §652 E, §652 I etc. and for purposes of private commercial gain as a contractor for NASA. Violation's fall under 1986 Amendments Pub. L. 99-508, §103.

4. [5 USDC §552a et. seq.], 5 USDC 552a (g)(1)(C) or (D) prohibit unfair keeping of employee records (Complaint ¶ 8). Employee filled out a form with limited personal information including close contacts (family names and addresses) to get a badge to enter the contractor's agency. In a professional environment as a engineer, plaintiff has not knowledge of management business, Honeywell provides Information Technology Services. Defendant may has the business to report their findings at a professional level, their intention comprise to completely hurt plaintiff's character and reputation using unfair employment practices to humiliate her using other employees to harassed her creating an adverse effect on plaintiff because her private matters not of legitimate business or public concern reached the public.

II. INVASION OF PRIVACY WITH UNREASONABLE PUBLICITY GIVEN To PRIVATE LIFE - CLAIM FOR RELIEF

1. Restatement, TORTS 2d, § 652 D, and §652 E on Invasion of Privacy prohibit releasing information of

private nature. The right of freedom of speech and press are part of Constitutional Rights, but these freedoms do not by any means give Defendant the right to intrude and then report to NASA describing plaintiff's truly private matters including family assets, business and positions level. Defendant instigated implying their desire to acquire new business because during scrutinizing Plaintiff, they found out that plaintiff friends included NASA employees with authority managing budgets. This led defendant to intimidate with remarks ranging from plaintiff looks and appearance to race. Plaintiff requested an explanation from Human Resources regarding their harassment outside work, however defendant ignored the issue. Plaintiff had knowledge of defendant involvement hurting her outside work about February, 2004. Defendants action to wrongfully disclosed Plaintiff's private information to the public and by circulating it via not secure networks and intra-corporate networks with NASA created a record on computers, and by oral publication violated Torts. Defendant took not affirmative steps to stop his inappropriate employment practices hurting plaintiff at work and outside from work.

2. Md. Ann. Code art. 49B, §8, Md. Ann. Code art. 49B, §14(2005), Md. Ann. Code art. 49B §16 (2005) prohibit Illegal employment practices. Plaintiff is a Naturalized Citizen of Colombian decent discriminated with respect of plaintiff race, and National origin with the intent to deprive plaintiff of employment opportunities. Defendant acquired knowledge of plaintiff activities outside work and friends and acquaintances and harassed plaintiff at work stating places she visited and the names of people she welcome. Some of the people she welcome

worked at management positions for NASA. Defendant when as far as starting to demand that plaintiff must work on bringing business in, the people plaintiff salute and welcome were only for social matters and defendant had no business interfering with plaintiff private life outside work.

3. Defendant's conduct violated section 706(g) of the Civil Rights Act of 1964 and 42 USDC §2000e-5, or §1981, §1983]. 4. 18 USDC §2510 (2), §2510 (4), §2510 (5)(a)(i), 18 USDC §2520 (b), 18 USDC §2511 (1)(d), 18 USDC §2511 (2)(d) prohibit wiretap in car, computer and phone. Plaintiff is a Naturalized Citizen of Colombian decent and her privacy has been totally invaded by defendants who improperly disclose her personal business to coworkers and contactor NASA then public. It is awkward, but calling "individual on the street" type of person to the stand and eliciting from him or her just testimony, this person may have knowledge of plaintiff's privacy.

III. INTENTIONAL DISCRIMINATION - CLAIM FOR RELIEF

42 USCS §2000e-2 [42 USDC §2000e et. seq.] prohibit from any discrimination base on race, or national origin within the meaning of section 703 of the Civil Rights Act of 1964. Plaintiff is a Naturalized Citizen of Colombian decent within the meaning of 42 U.S.C.S. §2000e-2. Plaintiff is fully qualified to serve as a Software Engineer, working 22 years for Honeywell in different positions in the Information Technology Field, and has been discriminated against by defendant, in violation of section 706(g) 42 USDC §2000e-5(g); and compensatory damages as would be

appropriate under sections 1977A(a)(1), 1977A(b) [42 USDC §1981a(a)(1), (b)(2], and, irrespective of the size of the employing office, 1977A(b)(3)(D) of the Revised Statues [42 USDC §1981a(b)(3)(D)]. Solely because she is a citizen of Colombian decent, defendant excluded plaintiff from her position. Plaintiff reported harassment to Honeywell's Human Resources Department. And they did not take any action, but ignored the issue (Complaint ¶ 28).

IV. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS - CLAIM FOR RELIEF

1. Restatement, TORTS 2d, §46 (c), §46 (d), §46 (e), §46 (2), §47 (b), and/or Title VII Civil Rights Act of 1964, (42 USDC §2000e- 2000e-17) prohibit employment practices which gear to hurt employee. Defendant did not use physical intrusion or force, Plaintiff is not death, but rather the defendant intercepted via taps invading in plaintiff's private affairs examining into plaintiff private concerns. Plaintiff has suffered and continues to suffer extreme anxiety and rejection due to the actions of defendant. In addition, as a result of defendant's acts, described in Count I through Count V, plaintiff has been physical exhausted and unable to lead her life in a normal manner, and has suffered aggravation of her well being. Defendant highly offensive crime of intrusion wellspring pain, suffering, mental anguish, anxiety, anger and depression embarrassing, intimidating and humiliating Plaintiff causing the following physical injuries related to mental stress:

a. Harm from loss of sleep.
b. Harm from prolonged inactivity.

c. Impairment of ability to enjoy life.
d. Ongoing stress due to public contempt and ridicule.
e. Harm from brain seizure.
f. Harm making plaintiff prone to heart attack.

2. Defendant's conduct violated section 706(g) of the Civil Rights Act of 1964 and 42 USDC §2000e-5, or §1981, §1983].

3. Md. Ann. Code art. 49B, §8, Md. Ann. Code art. 49B, §14(2005), Md. Ann. Code art. 49B §16 (2005) prohibit Illegal employment practices.

V. NEGLIGENCE · CLAIM FOR RELIEF

1. Title VII Civil Rights Act of 1964, (42 USDC § 2000e· 2000e-17 and/or §1981, §1983; (42 USDC §2000e-2(a)(1))), and/or Md. Ann. Code art. 49B; Restatement, TORTS 2d, § 312, § 313, § 46(14)(j), § 47(a), §500(a) Defendant violated torts by his outrageous conduct creating a work environment in which people with authority promoted shame, intimidation, humiliation and embarrassment. Defendant is now and at all relevant times was a policy-making official within the corporation. In that capacity, defendant had the final decision-making authority on reports to his client. Defendant had the power to rescind reports and create remedies as soon as plaintiff complaint, but failed to do so. Further, defendant violated plaintiff's right to privacy (to be left alone), an unlawful act against plaintiff Civil Rights · Tort and privacy protection commission section 2a(4), . Plaintiff's cause for termination from

her job according to a person in authority and coworkers resulted from the fact that she was sought for an Ambassador position. Defendant actions jeopardized Plaintiff's reputation.

Plaintiff's family and her financial maters along with her private matters are not of public concern. Defendant is liable for:

a. Publicizing plaintiff and family privacy which is an unlawful employment practice.

b. Outrageous conduct emanating the inconvenience of unfairness with Ethnic discrimination and humiliation.

c. Retaliating against employee for blowing the whistle.

d. Taking no steps to protect employee ignoring complaints.

e. Actual financial loss of past earnings due to wrongful termination.

f. Pass and anticipated future expenses finding a job.

g. Failure to maintain a working atmosphere free of intimidation or insults.

h. Violations of accuracy of records.

i. Adverse effect, upset and embarrassment as a result of disclosure to public such coworkers etc.

j. Malicious reporting knowing that it would hurt an employee.

k. Sabotage plaintiff's life inflicting pain, and distress.

l. Alter the motive of Termination.

m. Unreasonable interfered with work performance.

n. Adverse employment references.

o. Adverse treatment affecting plaintiff

2. Defendant's conduct violated section 706(g) of the Civil Rights Act of 1964 and 42 USDC §2000e-5, or §1981, §1983].

3. Md. Ann. Code art. 49B, §8, Md. Ann. Code art. 49B, §14(2005), Md. Ann. Code art. 49B §16 (2005) prohibit Illegal employment practices.

CONCLUSION, although plaintiff believes that the complaint contains all necessary allegations, if the Court finds that any allegations is insufficient, plaintiff respectfully requests that leave to further amend be granted.

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I SOLEMNLY AFFIRM under the penalties of perjury, that the contents of the present affidavit are true to the best of my knowledge, information and belief.

Respectfully submitted,

_____s_____
Mariela Valderrama
P. O. Box 347
Gambrills, Maryland 21054
(410) 790-1482
Pro Se

April 14, 2005

_____
Date

Thank you for your anticipated cooperation!